IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

Crl.MC.No. 637 of 2007()

CC.571/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PARAPPANANGADI

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PETITIONER: PETITIONERS/ACCUSED NO 1 TO 4

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1. MOHAMMED ASHRAF THUNDIYIL, S/O.KUNHAVARAN HAJI,KALLAKKAN HOUSE,THATTASSERY ARA,KANNAMANGALAM,MALAPPURAM DISTRICT.

2. PULIKKAL ABDULLA @ ABU S/O.ABOOBACKER, PULIKKAL HOUSE,THATTASSERY ARA,KANNAMANGALAM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: RESPONDENT STATE

THE STATE OF KERALA REPRESENTED BY THE STATION HOUSE OFFICER,THENHIPALAM POLICE STATION, THROUGH PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.637 of 2007

Dated this the 8th day of March 2007

O R D E R

The petitioners face indictment in a prosecution interalia under Section 354 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police. The petitioners are accused 1 and 4. According to the petitioners, no summons was served and the petitioners had no knowledge of the proceedings initiated against them. They are now prepared to appear before the learned Magistrate and apply for bail. But the petitioners apprehend that the learned Magistrate may not consider their application for bail on merits, in accordance with law and expeditiously. They, in these circumstances , pray that directions under Section 482 Cr.P.C may be issued to the learned Magistrate to release them on bail on the date of surrender itself.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume

that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the learned Public Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006